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writing, but is called to testify merely from a comparison of hands. (2) The general rule has exceptions equally as well settled as the rule itself, one of which is that if a paper is in evidence in the case for some other purpose, and is admitted or satisfactorily proven to be in the handwriting of the party, or to bear his signature, the disputed writing may be compared therewith, and its genuineness inferred, or otherwise, from such comparison. (3) A paper, such as a pleading, recognizance, or the like, filed by a party to the case, bearing his signature, and forming part of the record or proceedings in the case of which the court takes judicial notice, may likewise be made the basis of comparison in determining the genuineness, or otherwise, of a writing attributed to that party. (4) Where the disputed writing is not of such antiquity that witnesses acquainted with the person's handwriting cannot be had, papers otherwise irrelevant to the issues, and not in the case as part of its record or proceedings, cannot be introduced in evidence merely for the purpose of instituting a comparison of handwriting. (5) Where a comparison is permissible, it may be made by the court and jury, with or without the aid of expert witnesses. The danger of fraud or surprise, and the multiplication of collateral issues, are the principal reasons for confining the rule within these limits."

CARRIERS—NEGLIGENCE—LIABILITY OF DOMINANT CARRIER FOR ACTS OF CONSTITUENT CARRIERS—CARS OVERLAPPING PLATFORM.—Since 1893 the stock of the Easton & Amboy R. R. has been owned by the Lehigh Valley Terminal R. R., and all the stock of the latter by the defendant, the Lehigh Valley R. R., which thus controlled the election of all directors and officers, and the general management of both subsidiary corporations. The potential and ultimate control of both was lodged in the defendant.

Where the lines of several railroad corporations are conducted as a single system they may constitute themselves a partnership for the business of traffic and as such will be liable upon the principle of the laws of agency. The dominant carrier is liable for all breaches of obligation by any of the other constituent carriers, especially when, as here, the dominant corporation ultimately derives all the profits and incurs all the losses arising from the traffic originating on any of the lines.

Plaintiff's decedent, a passenger for carriage having a ticket of defendant calling for transportation to Easton, Pa., from Alpha, N. J., was killed on the station platform at Alpha, while awaiting the arrival of the regular train which he intended taking, by a special train passing without stopping, whose cars overlapped the platform. *Held*, that the court did not err in charging that decedent had the right to assume generally that the train would not sweep him off, provided he used ordinary care and prudence, such instruction having been preceded by others which directed the attention of the jury to the inquiry whether decedent knew or had reason to know that passing cars would overhang the platform near the edge.

Upon the undisputed evidence plaintiff was entitled to have a verdict

directed in her favor except upon the issues of negligence and concurring negligence.

Lehigh Valley R. R. Co. v. *Dupont* (C. C. A. Second Circuit), N. Y. Law Journal, March 7, 1904. Citing as to second point, *supra*, *Swift* v. *Pacific Mail Steamship Co.* (106 N. Y. 206), *Philadelphia, Etc. R. R.* v. *State* (58 Md. 372), *Weyman* v. *Chicago Etc. R. R.* (Mo. Ap. 37), *Bradford* v. *So. Car. R. R.* (97 Rich. L. 201), *Harris* v. *Cheshire R. R* (R. I. 16 Atl. Rep. 512), *Block* v. *Fitchburg R. R.* (139 Mass. 308), *Independence Mills Co.* v. *Burlington Etc. R. R.* (72 Iowa Rep. 535), *Cincinnati R. R.* v. *Spratt* (2 Duv. Ky. 4), *Barter* v. *Wheeler* (49 N. H. 9), *P. R. Co.* v. *Jones* (155 U. S. 333).

Lacombe, Circuit Judge, concurred in the result and in the opinion generally, but did not assent to the proposition that "the decedent had a right to assume that the platform was so related to the track that the train would not sweep over any portion of it."

In *Norfolk & Western Ry. Co.* v. *Hawkes*, decided February 10, 1904, and reported elsewhere in this number, the Court of Appeals of this state considers the question of overlapping platforms and adjudges the plaintiff below to have been guilty of contributory negligence as a matter of law. It is true that he was an employee — an assistant station agent — of the railroad company, and in the principal case, the plaintiff was a passenger. But as we read the opinion in the Hawkes case, this would not have affected the conclusion. "If," says Judge Harrison, "the negligence of defendant be conceded, the plaintiff, upon well settled principles, would not be entitled to recover — the injury of which he complains being the result of his own reckless and inexcusable negligence."

FEDERAL COURTS — OFFICERS — INDICTMENT — HABEAS CORPUS.—Where officers of a federal court were indicted by a state court for homicide in killing a prisoner they were seeking to arrest at the command of the United States marshal, the federal court had jurisdiction of a writ of *habeas corpus* to determine whether they were not unlawfully restrained of their liberty.

SAME — ARREST — KILLING ACCUSED — EVIDENCE.—During a strike, federal injunctions had been issued against the strikers, which had been uniformly disobeyed by deceased and others, and process had been issued for their arrest. Deceased on two occasions had resisted arrest with firearms, and had stated that he would never be taken alive, and did not intend to be arrested. Indictments having been returned against deceased, a United States marshal warned petitioners to assist in arresting him, and, after his house was surrounded, deceased ran therefrom with a revolver in his hand, which he pointed towards petitioners, and they, after calling to deceased to halt, and while he was approaching a tree which they believed he intended to use as a shelter to fire at them, shot deceased and killed him, for which they were indicted by the state court. *Held*, that such facts did not show an abuse of process, but justifiable